

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

BEN ZVAFLER, Trustee,
Plaintiff,

vs.

MARK CASEY, an individual; DEBRA
CASEY, an individual; DOES 1-10,
Defendants,

MARK CASEY, an individual; DEBRA
CASEY, an individual,

Cross-Claimants,

vs.

BEN ZVAFLER, Trustee, et al.,
Cross-Defendants.

CASE NO. 10cv1147 WQH (BGS)
ORDER

HAYES, Judge:

The matter before the Court is Plaintiff's second Motion to Remand. (ECF No. 10).


Plaintiff initially filed a Motion to Remand on June 11, 2010 (ECF No. 4) which was denied without prejudice on August 2, 2010, because defendants were subject to an automatic bankruptcy stay (ECF No. 9).

On August 12, 2010, Plaintiff's current Motion to Remand was filed. (ECF No. 10). On September 20, 2010, Defendants filed a Notice of Bankruptcy Automatic Stay. (ECF No. 12).

1 Defendants are subject to an automatic bankruptcy stay. (ECF No. 12). During an
2 automatic bankruptcy stay the Court cannot take any action which involves deliberation,
3 discretion, or judicial involvement. *McCarthy, Johnson & Miller v. North Bay Plumbing, Inc.*
4 (*In re Pettit*), 217 F.3d 1072, 1080 (9th Cir. 2000) (only automatic or ministerial acts are
5 exempt from the stay). Until the parties seek relief from the Bankruptcy Court, this Court
6 cannot grant the Motion to Remand.

7 IT IS HEREBY ORDERED that (1) Plaintiff's Motion to Remand (ECF No. 10) is
8 **DENIED** without prejudice in light of the bankruptcy stay; (2) Defendants shall notify the
9 Court within five days of the end of the bankruptcy stay; and (3) Plaintiff may re-file the
10 Motion to Remand within ten days of receiving notice of the end of the bankruptcy stay. The
11 Clerk of this Court shall administratively close this case. This case shall be immediately
12 reopened without further order of this Court upon Defendants' notification of the end of the
13 bankruptcy stay.

14 DATED: September 24, 2010

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16 **WILLIAM Q. HAYES**
17 United States District Judge
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